

REMARKS

In the Office Action mailed March 15, 2006, claim 1 was rejected under 35 U.S.C. 102(b) as being anticipated by Masunaga et al., U.S. patent 6,909,699, referred to herein as “Masunaga.” Applicant respectfully traverses this rejection and asserts that the Examiner has mischaracterized Masunaga. Specifically, Masunaga lacks the claimed limitation of a bus manager sending a configuration packet to all PHYs connected on the bus, the configuration packet containing a minimum gap count parameter value, the minimum gap count parameter value derived from the maximum round trip delay between the first PHY and the second PHY. While Examiner argues that Masunaga calculates round trip delay between PHYs, there is no portion of Masunaga that teaches, implies, or otherwise discloses sending configuration packets that contain a minimum gap count parameter value that is derived from this round trip delay between PHYs. Directing attention to Masunaga at column 8, lines 42-47, Masunaga calculates the gap count based on the PHY delay with respect to the delay between the bus manager and the leaf node, not the delay between two nodes. As the round trip delay is the sum of delay values, it is not calculate as an individual delay value between PHYs. If Examiner is asserting that equation (2) in Masunaga contains a calculation of round trip delays between PHYs, Applicant respectfully requests the Examiner specifically point this out.

To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), cert. denied, 484 U.S. 1007 (1988). Moreover, the single source must disclose all of the claimed elements “arranged as in the claim.” *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984).

The test for anticipation is symmetrical to the test for infringement and has been stated as: “That which would literally infringe [a claim] if later in time anticipates if

earlier than the date of invention.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); Connell v. Sears Roebuck & Co., 722 F.2d 1542, 1548, 220 U.S.P.Q. 1931, 1938 (Fed. Cir. 1983).

If the rejection of claim 1 was based on inherency, Applicant respectfully asserts that in order to support an anticipation rejection based on inherency, an Examiner must provide factual and technical grounds establishing that the inherent feature necessarily flows from the teachings of the prior art. Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int. 1990); In re Oelrich, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981) (holding that inherency must flow as a necessary conclusion from the prior art, not simply a possible one). Applicant submits that the Examiner has not made a prima facie case of anticipation of present claim 1 based on inherency.

Applicant has added new claim 10 that incorporates the limitations of claim 1, argued above. Applicant respectfully requests Examiner to place the present application in condition for allowance.

INVITATION TO TELEPHONE CONFERENCE

In the event that the Examiner feels that there are remaining issues that may be resolved by telephone, the Examiner is invited to call the undersigned attorney at the telephone number listed below.

Respectfully submitted,
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